



PATENT
Docket No. 220002056723
Client Reference 98-128-5

#190
Dec
12/16/02

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Tamara Alcaraz

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In the application of:

H. Kirk HAMMOND et al.

Serial No.: 09/750,240

Filing Date: December 26, 2000

For: GENE THERAPY FOR CONGESTIVE
HEART FAILURE

Examiner: M. Wilson

Group Art Unit: 1632

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the Office Action dated June 6, 2002 for which a response was due on July 6, 2002. A five (5) month extension of time is also filed concurrently herewith to extend the time for response from July 6, 2002 to December 6, 2002. Accordingly, this response is timely filed.

The Office Action set forth a Restriction Requirement requesting Applicant to elect one of the following groups for prosecution on the merits: Group I (Claims 1-7, 10, 11, 19, 20, 25, 26, 29-32); Group II (Claims 1-7, 10, 19, 20, 25, 26, 29-32); Group III (Claims 1-7, 12, 19, 20, 25, 26, 29-32); Group IV (Claims 1-7, 13-23, 25-33, 35); Group V (Claims 1-8, 19, 20, 25, 26, 29-32); Group VI (Claims 1-7, 9, 19, 20, 25, 26, 29-32); Group VII (Claims 36-38, 40, 47,

48, 51, 53-58, 64, 65 and 68); Group VIII (Claims 36-38, 41, 42, 45-51, 53-58, 59, 62-68); Group IX (Claims 36-38, 41, 47-49, 51, 53-58, 64-66 and 68); Group X (Claims 36-38, 41, 47-49, 51, 53-58, 64-66 and 68); Group XI (Claims 43, 44, 60, 61, 70-72, 86-88 and 91-96); Group XII (Claim 52); Group XIII (Claims 73-78, 89, 90 and 97-100); Group XIV (Claims 79-81); and Group XV (claims 82-85). Applicant hereby elects Group XIII (Claims 73-78, 89, 90 and 97-100).

Applicant's election of Group XIII is with traverse. Applicant submits that it would not be unduly burdensome for the Examiner to search the claims of group XIII in conjunction with the claims of Groups I- XII and XIV and XV. In addition, Applicant expressly reserves his/her right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

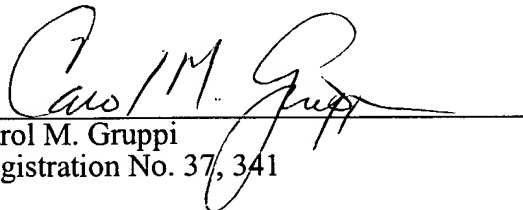
Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the fee transmittal is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 220002056723. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: December 6, 2002

By:


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PRELIMINARY AMENDMENT

Dear Sir:

Prior to examination on the merits, Applicant respectfully requests entry of this Preliminary Amendment for the above captioned application. Please amend the application as follows:

In the Claims

Please add the following new claim:

61
101. (New) An isolated polynucleotide of claim 74, comprising the nucleotide sequence
of SEQ ID NO: 10.

REMARKS

Claims 1-100 are pending in this application. Pursuant to the Response to Restriction Requirement filed concurrently herewith, Claims 73-78, 89, 90 and 97-100 (Group XIII) are

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